



Nevada Division of Environmental Protection Chemical Accident Prevention Program

Permit Processing Guide

This guide is intended to assist applicants in assembling the plans, documents and technical data necessary to obtain a CAPP Permit to Construct and a Permit to Operate. These permits are required for a new process that will become subject to the accident prevention and emergency response provisions of the Chemical Accident Prevention Program (CAPP) upon process startup.

This permitting process is coordinated with local agencies, including the building and fire departments, to provide for efficient and timely review. However, issuance of a CAPP Permit does not secure approval of local agencies, as the review scope and authority of these agencies is different from CAPP.

The primary purpose of the CAPP permitting process is to ensure that the provisions of CAPP regulation (codified at NAC 459.952 to 459.95528) have been satisfied prior to process startup. Additionally, the facility must take measures to ensure minimal offsite impact on the neighboring community in the event of an accidental release, fire, or explosion, AND that the capability to respond to such incidents with a hazardous materials response team, whether provided locally or by the facility itself, is in place.

The following outlines the steps involved in the permitting process.

STEP 1: Hold a Preapplication Meeting (NAC 459.95345)

Facility representatives shall meet with CAPP staff to discuss the following:

1. Project scope and the applicable design and construction codes and standards;
2. Document submission requirements; and,
3. Project schedule.

Just as the size, complexity, and uniqueness of processes vary, so do the applicable design and construction codes. Facility representatives and CAPP staff will discuss appropriate codes and standards to be used in the process design and construction so that a determination of the required documents can be made.

Additionally, CAPP will include local agencies in this initial meeting as appropriate to discuss coordination. A key area of coordination is with respect to review and approval of civil and structural design related to the process equipment. CAPP will defer to the local agency if they elect to permit these items.

STEP 2: Submit a Permit to Construct Application (NAC 459.953451)

The facility shall submit a complete permit to construct application to CAPP. Construction of the process shall not commence until the Permit to Construct has been granted. Select design, construction, and emergency response information is requested to facilitate CAPP's compliance evaluation. Although some of the documents requested in the application package do not require CAPP approval, many are used as supporting information for the documents that do require approval. (Refer to the Permit to Construct application form for more information.)

STEP 3: Receive Application Completeness Determination (NAC 459.953463)

CAPP staff will determine if the submitted application contains all of the required information. The initial determination will be made within 30 days of CAPP receipt. CAPP is not obligated to commence review until the application is complete, but may elect to proceed if the application is substantially complete.

STEP 4: Remit Plan Check Fees (NAC 459.953475)

After CAPP staff finds the application complete, the facility must remit \$5,000 to initiate the plan review. The final cost of the permit will vary based upon the complexity of the operation. Plan check fees will be charged on a cost reimbursable basis, not to exceed a total amount of:

- \$40,000 for a process represented on 5 P&IDs or less;
- \$50,000 for a process represented on 20 P&IDs or less;
- \$50,000 plus \$500 for each P&ID in excess of 20.

CAPP will invoice the facility for charges in excess of the initial \$5,000. Additionally, if a process is checked for less than the \$5,000 submitted initially, the balance will be refunded. Fees related to checking foundations or structures are not subject to this fee cap.

STEP 5: Post Public Notice of Permit to Construct Application (NAC 459.953465)

Once CAPP has determined that the Permit to Construct Application is complete, CAPP is obligated to make public notice of its intent to issue the Permit to Construct. The public will be given access to select application information including the following: the facility's registration, emergency response plan, site plan, and the conditional use permit (CUP) provided by the local authority. Trade secrets, other drawings, specifications, and calculations will not be made available to the public.

The public will have 30 days to respond following the public notice posting, after which CAPP has 15 days to decide upon issuance. This is not a rehearing of the CUP. Failure to address CAPP regulation would be the only reason CAPP would require a modification or deny the permit.

STEP 6: Issue Permit to Construct (NAC 459.953467)

Construction may commence upon Permit issuance. Criteria for Permit issuance is defined under this section of the regulation.

STEP 7: Inspect Construction Activities (NAC 459.95347)

Construction inspection shall be provided by the owner's inspectors as approved by CAPP. CAPP staff will review inspection records in the field and witness testing as staff is available. Construction will not be delayed due to unavailability of CAPP.

STEP 8: Issue Permit to Operate (NAC 459.953473)

There is no distinct application for this Permit. This review primarily ensures that the remainder of the CAPP prevention program elements have been developed and are ready for implementation. The facility must notify CAPP as the program elements are ready for review.

There are no renewal requirements with this Permit. Once the Permit is received, the facility may commence operation. From this point forward, CAPP will conduct annual compliance inspections to verify continued maintenance and implementation of the program requirements.

NEVADA ADMINISTRATIVE CODE

CHAPTER 459

HAZARDOUS MATERIALS

REGULATION OF HIGHLY HAZARDOUS SUBSTANCES

Codified Permanent Regulatory Amendments as Related to CAPP Permitting

(Adopted on November 30, 2004)

Definitions

NAC 459.95247 “Explosives manufacturing operation” defined.

NAC 459.95259 “Local building official” defined.

NAC 459.952695 “New process” defined

NAC 459.95281 “Process” defined.

Permit to Construct and Commence Operation

NAC 459.95345 Application for permit to construct: Preliminary meeting with division.

NAC 459.953451 Application for permit to construct: Submission; contents; requirements for accompanying documents, specifications and calculations.

NAC 459.953453 Application for permit to construct: Information held as trade secret.

NAC 459.953455 Contents of application for permit to construct: Process hazard analysis; information concerning process safety.

NAC 459.953457 Contents of application for permit to construct: Site plan; plot plans of project area; diagrams; drawings.

NAC 459.953459 Contents of application for permit to construct: Specifications.

NAC 459.95346 Contents of application for permit to construct: Calculations.

NAC 459.953461 Contents of application for permit to construct: Information concerning inspectors for construction of process pipes, concrete foundations and structural steel.

NAC 459.953463 Initial review of application for permit to construct; notification of applicant concerning completeness of application.

NAC 459.953465 Notice of receipt of application for permit to construct; period for public comment; action by division after period of public comment

NAC 459.953467 Conditions for issuance of permit to construct; approval of site plan; certain modifications in construction to be reflected in pre-startup safety review.

NAC 459.953469 Commencement of construction before issuance of permit to construct.

NAC 459.95347 Maintenance and availability of information during construction activity before issuance of permit to construct; revised schedule for construction upon issuance of permit.

NAC 459.953471 Permit to operate: Requirement to commence operation or to bring certain substances onto site of new process.

NAC 459.953473 Permit to operate: Conditions for issuance; submission of assessment report.

NAC 459.953475 Fees.

NAC 459.953477 Exemption from payment of certain annual fees.

Permits to Construct and Operate New Process

NAC 459.95247 “Explosives manufacturing operation” defined. (NRS 459.3818)

“Explosives manufacturing operation” means a process that involves the manufacture of explosives for sale *even if highly hazardous substances are also* used in the explosives manufacturing operation. The term includes *the manufacture of devices containing explosives and* explosive storage sites that are incidental to the manufacture of explosives for sale.

NAC 459.95259 “Local building official” defined. (NRS 459.3818) “Local building official” means the governmental entity charged with the administration and enforcement of local building codes.

NAC 459.952695 “New process” defined. (NRS 459.3818) “New process” means a process that has been, or will be, installed at a facility and will be in operation for the first time at that location. The term includes, without limitation, a new explosives manufacturing operation.

NAC 459.95281 “Process” defined. (NRS 459.3809) “Process” means :

- 1. Any activity that involves a highly hazardous substance or an explosive, including, without limitation, the use, storage, manufacturing, handling or on-site movement , or any combination thereof, of such a substance or explosive.*
- 2. A group of vessels that are used in connection with such activity, including vessels that are:*
 - (a) Interconnected; or*
 - (b) Separate, but located in such a manner that a highly hazardous substance or explosive could potentially be released, including, without limitation, a release, fire or explosion in one vessel that could cause a release, fire or explosion in another vessel.*

NAC 459.95345 Application for permit to construct: Preliminary meeting with division. (NRS 459.3818, 459.3829)

1. Before an owner or operator of a facility may commence the construction of a new process subject to *C.A.P.P.*, the owner or operator must obtain a permit to construct the new process from the Division pursuant to NAC 459.95345 to *459.953467*, inclusive.
2. Before applying for a permit to construct a new process, the owner or operator of the process must meet with the Division to discuss:
 - (a) The scope of the project and the applicable codes and standards relating to the design and construction of the project;
 - (b) The requirements for the submission of documents; and
 - (c) The schedule for the construction of the project.

NAC 459.953451 Application for permit to construct: Submission; contents; requirements for accompanying documents, specifications and calculations.

(NRS 459.3818, 459.3829)

1. To obtain a permit to construct a new process subject to *C.A.P.P.*, an owner or operator of a new process must submit to the Division a complete application for a permit to construct and two copies of the complete application. The Division shall determine which elements of the application, if any, will be reviewed at the site where the new process will be located.

2. An application for a permit to construct a new process must be made on a form prescribed by the Division and include:

(a) Registration for the process that includes:

(1) The information required by NAC 459.9535;

(2) *A summary of the hazard assessment conducted pursuant to NAC 459.95364 to 459.95376, inclusive;*

(3) The name, address and telephone number of the person submitting the plans;

(4) An overview of the project that includes a description of:

(I) The process;

(II) The hours of operation during which the process will be operated;

(III) The estimated number of personnel, for each shift, who will be working on the process, including, without limitation, personnel in operations, personnel in maintenance, office staff, contract personnel and any other personnel;

(IV) The modes, frequency and hours of transportation of the incoming and outgoing raw materials and products;

(V) The scope of the construction; and

(VI) The schedule for the project; and

(5) Information concerning the inspectors of the construction required pursuant to NAC 459.953461;

(b) A coordinated emergency response plan document developed pursuant to NAC 459.9544 and 459.95442;

(c) Information concerning the process and safety process hazard analysis required pursuant to NAC 459.953455;

(d) Documents, specifications and calculations required pursuant to NAC 459.953457, 459.953459 and 459.95346; and

(e) A copy of the conditional use permit issued pursuant to NRS 278.147.

3. Documents, specifications and calculations submitted pursuant to NAC 459.953457, 459.953459 and 459.95346 must:

(a) Be stamped or sealed in accordance with chapter 625 of NRS, and any regulations adopted pursuant thereto, by the engineer who has responsible charge of the document, specification or calculation; and

(b) Include a table of contents or cover sheet that complies with the requirements of chapter 625 of NRS and any regulations adopted pursuant thereto.

NAC 459.953455 Contents of application for permit to construct: Process hazard analysis; information concerning process safety. (NRS 459.3818, 459.3829)

1. In addition to any other information required to be included pursuant to NAC 459.95345 to 459.953477, inclusive, an application for a permit to construct must include:

- (a) Information relating to the hazards of any *highly hazardous* substance *or explosive* as described in paragraph (a) of subsection 2 of NAC 459.95412.
- (b) A description of the process chemistry, as required in NAC 459.95412, including, without limitation, a description of the potential side reactions, regardless of whether the reactions would create hazardous consequences.
- (c) If not readily apparent from the piping and instrument diagrams, documentation concerning the control logic that explains the function of the process controllers, switches and interlocks. Such documentation must be as concise as possible to allow the Division to review and use the information efficiently.
- (d) A material and energy balance as required in NAC 459.95412.
- (e) A description of the safety system as required in NAC 459.95412.
- (f) A complete process hazard analysis performed pursuant to NAC 459.95414.
- (g) A list of vessels and rotating equipment, traceable to the piping and instrument diagram, and, if requested by the Division, design and code information.*

2. The process hazard analysis and information concerning process safety included in an application for a permit to construct a new process must indicate the current revision number and date on which that revision was carried out.

NAC 459.953457 Contents of application for permit to construct: Site plan; plot plans of project area; diagrams; drawings. (NRS 459.3818, 459.3829)

1. In addition to any other information required to be included pursuant to NAC 459.95345 to 459.953477, inclusive, an application for a permit to construct a new process must include:

- (a) A site plan, drawn to scale, that identifies the location within the facility of the new process on a map. A site plan must include and indicate, without limitation:
 - (1) The city and county roads in the area of the facility of the new process.
 - (2) The area encompassing the endpoint of the worst-case release scenarios developed pursuant to NAC 459.95366 *or the area encompassing an area extending 1 mile radially from the facility, whichever is larger.*
 - (3) A graphical delineation of the endpoints of each worst-case release scenario and alternative release scenario developed pursuant to NAC 459.95366 and 459.95368.
 - (4) All major roads and transportation corridors.
 - (5) Routes for incoming and outgoing raw materials and products.
 - (6) The location of the first responding fire station and the hazardous materials response station. *If the first responding fire station or hazardous materials response station is located outside the plan area, the site plan must include the address of the station and indicate the distance and direction that the station is from the facility.*
 - (7) The location of schools, hospitals and other public receptors within the plan area.

(b) Plot plans of the project area, shown on separate drawings and drawn to scale, that show:

- (1) The safety systems, including, without limitation, the locations of:
 - (I) Water and tankages for other materials associated with the fire suppression systems.
 - (II) The system pumps and the routing of the distribution piping.
 - (III) Hydrants, monitors and other similar fire suppression equipment.
 - (IV) The detectors of toxic and combustible gases and flames.
 - (V) Personal protective equipment.
 - (VI) Major process equipment.
- (2) The location of the electrical hazardous areas. The plot plan must:
 - (I) Provide the necessary elevations and include detailed drawings to distinguish between electrically unclassified and electrically classified areas, as those terms are defined in Article 500 of the N.F.P.A. 70, the *National Electrical Code*, adopted by reference pursuant to NAC 459.95528; and
 - (II) Denote the nationally recognized code or standard upon which the drawing is based to determine the extent of the electrically classified areas.

(c) Process flow diagrams, shown on as many drawings as necessary, developed pursuant to NAC 459.95412. The process flow diagrams must correspond to the material and energy balance submitted pursuant to NAC 459.953455.

(d) Piping and instruments diagrams, shown on as many drawings as necessary, developed pursuant to NAC 459.95412. The piping and instrument diagrams must:

- (1) Be submitted on paper that is 11 inches by 17 inches.
- (2) Be on an easily legible scale.
- (3) Cover the new process. The Division may request that the diagrams include any associated systems, including, without limitation, air, water, nitrogen and process drain systems, if the Division determines that the inclusion of the additional information is necessary to assist with the review of the process hazard analysis.
- (4) Indicate all piping, equipment, instruments and controls.
- (5) Correspond to:
 - (I) The process flow diagrams;
 - (II) The documentation concerning the control logic and the process hazard analysis submitted pursuant to NAC 459.953455; and
 - (III) The specifications submitted pursuant to NAC 459.953459.

(e) Drawings indicating the concrete foundations and structures related to the new process that are not subject to the review and approval of the local building official.

These drawings must include and indicate:

- (1) The preparation for the base and subbase, including, without limitation, compaction requirements;
- (2) The requirements relating to forms, reinforcing bars and appurtenances;
- (3) The specifications relating to concrete and grout;
- (4) The requirements for testing and inspection; and
- (5) The applicable codes, standards or industry recommended practices governing the design and construction to be used.

(f) Drawings for the structural steel support for the equipment and piping related to the new process that are not subject to the review and approval of the local building official. These drawings must include and indicate:

- (1) Specifications for the steel and bolting;
- (2) Requirements for welding, testing and inspection; and
- (3) The applicable codes, standards or industry recommended practices governing the design and construction to be used.

2. A drawing included pursuant to this section in an application for a permit to construct must indicate the current revision number and date of the drawing and be of sufficient quality so that a legible copy can be made of the drawing. If a drawing is drawn to scale, the scale must be indicated and a bar scale must be included.

**NAC 459.953459 Contents of application for permit to construct: Specifications.
(NRS 459.3818, 459.3829)**

Specifications included in an application for a permit to construct a new process:

1. Must indicate the current revision number and date on which the specifications were developed;
2. Must define:
 - (a) The applicable codes, standards or industry recommended practices to be followed for the design, construction and inspection of the new process;
 - (b) The design conditions, including, without limitation, maximum allowable working pressures, the design temperatures and the seismic criteria, where applicable;
 - (c) The required materials of construction;
 - (d) The qualification requirements for:
 - (1) *The* installation methods to be used ; and
 - (2) *The* personnel performing the construction and inspection activities; and
 - (e) The requirements for inspection and testing; and
3. Must be provided for process piping, fittings and valves. *Requirements for inspection, examination and testing related to piping construction must be appropriate for the application, and must, without limitation:*
 - (a) *Meet the requirements defined in Chapter VI of ASME B31.3 - 1999 Process Piping with Addenda, which is adopted by reference pursuant to NAC 459.95528;*
 - (b) *Require examination of:*
 - (1) Not less than 5 percent of all circumferential butt and miter groove welds by random radiography and require that the welds meet the acceptable criteria for normal fluid service specified in Chapter VI of ASME B31.3; and
 - (2) *Not less than 5 percent of socket welds and other fillet welds by magnetic particle, liquid penetrant or ultrasonic testing and require that the welds meet the acceptance criteria for normal fluid service specified in Chapter VI of ASME B31.3.*

NAC 459.95346 Contents of application for permit to construct: Calculations. (NRS 459.3818, 459.3829)

1. In addition to any other information required to be included, an application for a permit to construct a new process must include calculations for:
 - (a) Concrete foundations for drawings submitted pursuant to NAC 459.953457, including, without limitation, a soils report to support the design calculations;
 - (b) Structural steel drawings submitted pursuant to NAC 459.953457; and
 - (c) *The capacity of* pressure relief devices *and pressure relief systems* to be included in the new process.
2. Calculations included in an application for a permit to construct a new process must indicate the current revision number and the date of the current calculation.
3. Each set of calculations must include a cite to the applicable code, standard or industry recommended practice governing the design and construction that was used in making the calculation.
4. If the calculations are computer-generated, the calculations must include:
 - (a) A complete description of the mathematical model used in the design; and
 - (b) An identification of the design program used, input data required, limitations on the application of the program and the final results.
5. Upon the request of the Division, an applicant for a permit to construct shall provide supporting information for the calculations provided in the application, including, without limitation, data generated by vendors.

NAC 459.953461 Contents of application for permit to construct: Information concerning inspectors for construction of process pipes, concrete foundations and structural steel. (NRS 459.3818, 459.3829)

1. An applicant for a permit to construct must include in the application information concerning the inspectors for the construction of process pipes, concrete foundations and structural steel if these activities are to be permitted pursuant to NAC 459.953467.
2. The information concerning the inspectors must identify:
 - (a) Each inspector to be employed by the applicant;
 - (b) The scope of the inspection services to be provided by each inspector, including, without limitation, the types of observations and tests to be used; and
 - (c) The qualifications of each inspector that will enable the inspector to perform the inspection. If the inspector is required to be certified or hold other specific credentials to perform his duties, the applicant must include a copy of the required certifications or credentials.

NAC 459.953463 Initial review of application for permit to construct; notification of applicant

concerning completeness of application. (NRS 459.3818, [459.3829](#))

1. Upon receipt of an application for a permit to construct a new process, the division shall review the application to determine if the application includes all the information required by NAC 459.953451. Not later than 30 days after the date on which an application is received, the division shall provide to the applicant its initial determination as to the completeness of the application.
2. If the division determines that an application for a permit to construct does not include all the information required by NAC 459.953451, the division shall notify the applicant of its determination and include in the notice a description or list of the deficiencies.
3. If the division determines that an application for a permit to construct is not complete, the division may:
 - (a) Return all the submitted information to the applicant and require the applicant to resubmit the application when completed; or
 - (b) Delay the review of the incomplete application until the applicant submits the required information and the application is determined to be complete.

NAC 459.953465 Notice of receipt of application for permit to construct; period for public comment;

action by division after period of public comment. (NRS 459.3818, [459.3829](#))

1. Upon determining that an application for a permit to construct a new process is complete, the Division shall issue a notice of its receipt of the application. The notice must:
 - (a) Be sent to the applicant and the local governing body in the area in which the new process is to be located, and be published in a newspaper of general circulation for the area in which the process is to be located; and
 - (b) Summarize the review to be conducted by the Division on the application for the permit to construct and state that the following information will be available for public review:
 - (1) The registration submitted pursuant to NAC 459.953451;
 - (2) The coordinated emergency plan document;
 - (3) The site plan; and
 - (4) A copy of the conditional use permit.
2. The period for public comment must be 30 days and commences on the date on which the notice is published in the newspaper.
3. Not later than 15 days after the date on which the period for public comment concerning an application for a permit to construct closes, the Division may, after considering the documents that are part of the application, require further modifications if such modifications are determined necessary to satisfy the requirements *[set forth in NAC 459.953467 for issuing a permit to construct.](#)*

NAC 459.953467 Conditions for issuance of permit to construct; approval of site plan; certain modifications in construction to be reflected in pre-startup safety review. (NRS 459.3818, 459.3829)

1. The Division shall issue a permit to construct a new process if the Division:
 - (a) Approves the analysis of off-site consequences developed pursuant to NAC 459.95364 to 459.95376, inclusive;
 - (b) Determines that the inspectors for the construction to be used by the applicant for the permit to construct:
 - (1) *Are capable of providing an* inspection as required by the applicable specifications, codes and standards, and *of ensuring* that the construction and installation of the new process is performed pursuant to those specifications, codes and standards;
 - (2) Are qualified by experience and, if applicable, hold the proper certifications and credentials to perform their duties as inspectors; *and*
 - (3) Are not employed by or under contract with any entity that will be performing the construction activity subject to the permit to construct unless that entity is the owner or operator;
 - (c) Determines that:
 - (1) The emergency response program developed pursuant to NAC 459.9544 and 459.95442 is complete;
 - (2) Full-time emergency response capability is available; and
 - (3) Hazardous materials response capability:
 - (I) Is available pursuant to the requirements of 29 C.F.R. § 1910.120;
 - (II) Is available 24 hours a day; and
 - (III) Will be provided by an organization that is not a volunteer fire department;
 - (d) Determines that the process hazard analysis complies with NAC 459.95414;
 - (e) Approves the site plan developed pursuant to NAC 459.953457;
 - (f) Determines that:
 - (1) The plans identifying the locations of the electrical hazardous area developed pursuant to NAC 459.953457 are in compliance with the applicable codes and standards, except that the Division may accept a local building official's approval of the drawing if the criteria set forth in NAC 459.953457 are met;
 - (2) The piping and instrument diagrams are consistent with the process flow diagrams and specifications;
 - (3) The drawings of the concrete foundation are consistent with the applicable calculations submitted;
 - (4) The drawings relating to the structural steel to be used in the construction are consistent with the applicable calculations submitted;
 - (5) The specifications submitted comply with the applicable codes and standards, and the selected materials and design parameters are determined to be compatible with the process; and
 - (6) The calculations submitted *provide answers that represent generally accepted calculation methods and* comply with the *appropriate* codes, standards and industry recommended practices, *where applicable*;

(g) Finds, upon its review of the portions of the new process, that those portions are in conformance with any requirement set forth in the conditional use permit issued pursuant to NRS 278.147 that require compliance with any part of NRS 459.380 to 459.3874, inclusive, or any regulation adopted pursuant thereto;

(h) Completes the public review and comment process and any modifications required by NAC 459.953465 have been put into place; *and*

(i) Determines that the applicant is not delinquent on the payment of fees assessed pursuant to NAC 459.953475.

2. For the Division to approve a site plan:

(a) The worst-case release scenarios developed pursuant to NAC 459.95366 must be mitigated in a manner acceptable to the Division to minimize the impact on public receptors located outside the industrial zoning district in which the new process will be located. At a minimum, some level of passive or active mitigation must be employed.

(b) The alternate release scenarios developed pursuant to NAC 459.95368 must be mitigated in a manner acceptable to the Division to minimize the impact on public receptors located outside the industrial zoning district in which the new process will be located. At a minimum, some level of mitigation must be employed, including, without limitation, the use of toxic or combustible gas sensors, as appropriate, that must be physically located to enable the detection of a release and a response thereto in a timely manner to minimize the impact of the release.

(c) The locations of the emergency responders as shown on the site plan must be consistent with the locations of the emergency responders identified in the emergency response program.

3. Any modification in the construction of a new process allowed pursuant to subsection 1 that causes the alteration of any document, drawing or specification must be reflected in the prestart-up safety review conducted pursuant to NAC 459.95425.

NAC 459.953469 Commencement of construction before issuance of permit to construct. (NRS 459.3818, 459.3829)

1. If the division determines that a new process is being constructed in the interest of mitigating the effects

of acutely hazardous conditions on public safety, the environment or the health of personnel, and timely

implementation of the new process is critical to ensure the preservation of those objectives, the division may allow the owner or operator to commence construction on the new process before the permit to construct is issued.

2. The owner or operator of a new process may commence construction before a permit to construct is issued if:

(a) The owner or operator submits with its application for a permit to construct a letter detailing the reasons

for the request to begin construction before the issuance of the permit to construct; and

(b) The division determines the application to be complete and has not identified any significant unmitigated hazard.

3. The division may:

(a) Impose such conditions as it determines necessary in authorizing an owner or operator to commence

construction before a permit to construct is issued; and

(b) Revoke the authorization if it determines that the owner or operator has not complied with the

conditions imposed.

(Added to NAC by Environmental Comm'n by R041-01, eff. 10-25-2001)

NAC 459.95347 Maintenance and availability of information during construction activity before issuance of permit to construct; revised schedule for construction upon issuance of permit. (NRS 459.3818, 459.3829)

1. During any construction activity done on a new process *approved* in accordance with NAC *459.953467*, the owner or operator of the new process shall:

(a) Maintain on-site:

(1) All documents, drawings and specifications related to the construction and operation of the new process;

(2) All records relating to inspections and testing related to the construction; and

(3) All records relating to the construction procedure and qualifications of persons performing the construction; and

(b) Make available such information to the Division or an authorized representative of the Division upon request by the Division or its representative.

2. Upon the issuance of a permit to construct, the owner or operator to whom the permit is issued shall provide the Division with a revised schedule for the construction that includes the approximate timing as to when:

(a) Concrete foundations will be poured;

(b) The erection of the structural steel components will be commenced;

(c) The fabrication of the process piping will be commenced;

(d) The hydrotesting for the process piping will be commenced; and

(e) Any other activities identified by the Division or an authorized representative of the Division will be performed or commenced.

NAC 459.953471 Permit to operate: Requirement to commence operation or to bring certain

substances onto site of new process. (NRS 459.3818, 459.3829) Before an owner or operator of a facility:

Before an owner or operator of a facility:

1. Commences the operation of a new process; or
2. Brings any *highly hazardous* substances *or explosives* onto the site of the new process, the owner or operator must obtain a permit to operate from the Division pursuant to NAC 459.953473.

NAC 459.953473 Permit to operate: Conditions for issuance; submission of assessment report. (NRS 459.3818, 459.3829)

1. The Division shall issue a permit to operate to the owner or operator of a new process only if:
 - (a) The Division has issued a permit to construct the new process;
 - (b) The owner or operator has received all appropriate permits from the local building official for the drawings and calculations for the construction of concrete foundations and structural steel;
 - (c) The Division determines that the requirements set forth in NAC 459.953475, 459.95412 to 459.95442, inclusive, *and 459.95516* have been satisfied; and
 - (d) The owner or operator is not delinquent on the payment of fees assessed pursuant to NAC 459.953475.*
2. *The owner or operator of a new process shall notify the Division when the owner or operator determines that the new process satisfies the requirements of any provision set forth in NAC 459.95412 to 459.95442, inclusive, or 459.95516 and is ready for review by the Division.*

NAC 459.953475 Fees. (NRS 459.3818, 459.3824, 459.3829)

1. An owner or operator of a new process shall remit fees to the Division for activities conducted by the Division relating to *permitting activities conducted pursuant to NAC 459.95345 to 459.953473, inclusive.*
2. Upon the determination by the Division that an application for a permit to construct a new process is complete, the owner or operator shall remit \$5,000 to the Division. The Division shall issue invoices to the owner or operator for any costs in excess of \$5,000, except that:
 - (a) If the new process has 5 or less piping and instrument diagrams, not including drawing legend sheets and utility piping and instrument diagrams, invoices may not be issued for more than a cumulative amount of \$40,000;
 - (b) If the new process has at least 6 but not more than 20 piping and instrument diagrams, not including drawing legend sheets and utility piping and instrument diagrams, invoices may not be issued for more than a cumulative amount of \$50,000; or

(c) If the new process has more than 20 piping and instrument diagrams, not including drawing legend sheets and utility piping and instrument diagrams, invoices may not be issued for more than a cumulative amount of \$50,000, plus \$500 for each piping and instrument diagram in excess of 20 diagrams.

3. The Division shall accrue charges for activities relating to the permitting of the new process conducted by:

(a) Personnel of the Division in the amount of **\$68** per hour; and

(b) Contractors in an amount equal to the cost to the Division, plus 5 percent.

4. The Division shall not require the owner or operator to pay more than the maximum cumulative amount for the respective new process as set forth in subsection 2, except that fees related to:

(a) The review of the concrete foundations or structural steel design; and

(b) Reviewing corrections, must not be considered when determining the maximum fee owed by the owner or operator.

5. After issuing a permit to **operate** to an owner or operator, the Division shall refund any excess fee paid to the Division by the owner or operator pursuant to this section.

6. The owner or operator may request in writing that the Division cease work on evaluating the application for a permit to construct, or evaluating whether the owner or operator has satisfied the requirements for the issuance of a permit to operate, at any time before the permit is issued. Upon receipt of such a request, the Division shall stop its evaluation and:

(a) Issue an invoice to the owner or operator for any outstanding money due pursuant to this section, including any money committed to any engineering contractor for review services; or

(b) Refund any excess fee paid to the Division by the owner or operator pursuant to this section, as appropriate.

NAC 459.953477 Exemption from payment of certain annual fees. (NRS 459.3818, 459.3824, 459.3829)

1. Notwithstanding any provision of NAC 459.95334 or 459.953345 to the contrary, an owner or operator of a new process is exempt from the payment of annual fees related to the new process for the fiscal year in which the process or operation commences operation and for the following fiscal year.

2. The provisions of subsection 1 do not affect any other fees already being paid by an owner or operator of a facility for other processes or explosives manufacturing operations. In such a case, the provisions of subsection 1 apply only to the incremental annual fee as applied to the new process.

3. As used in this section, “fiscal year” means the fiscal year on which the state budget is based.